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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/731,795

12/09/2003

Terry S. Bienstock

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER

PARRA, OMAR S

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/731,795	Applicant(s) BIENSTOCK, TERRY S.	
	Examiner OMAR PARRA	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/09/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hugenberg et al. (hereinafter 'Hugenberg', Pub. No. 2003/0140353) in view of Hane (Pub. No. 2006/0041921).

Regarding claims 1 and 8, Hugenberg teaches that the method for a regular cable television network to provide public, educational and governmental (PEG) programming pursuant to an agreement with a local franchising authority for a local area providing a PEG channel in the channel lineup with respective backdrop programming for each local area as required by the corresponding local franchising authority agreement is well known in the art ([0003]; [0014]; [0036]-[0037]; [0042], where **PEG channels are well known in the art as being part of the cable television programming and where to function in a local area, permission from local authorities are inherently needed**). On the other hand, Hugenberg does not explicitly teach:

for each local area having a PEG channel, determining an availability of locally produced PEG programming; and

when locally produced PEG programming is available and intended for local broadcast in a particular local area having a PEG channel, preempting the backdrop programming and providing the locally produced PEG programming on the PEG channel in the particular local area thereby providing locally produced PEG programming against a backdrop of general local interest programming provided by the cable television network.

However, in an analogous art, Hane teaches a system and method for distributing national and locally produced content, where availability of local or regional content is checked and inserted to be presented to the users after a commitment of transmission (Abstract; [0050]-[0051]; [0057]-[0058]; [0067]-[0070]). The content is not limited to ads as used in the cited example, but locally produced news updates, political content programs, data, etc ([0043]-[0045]; [0076]-[0078]) .Additionally, Hane teaches that any person or entity is able to post content but after approval (([0043]-[0045];[0076]-[0078]; [0081]).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified the feature of Hugenberg's invention of collecting PEG content from the local areas and send it send it back with the rest of the content to respective local areas with Hane's feature of checking for locally produced content and insert it to the national content for the benefit of saving upload (when sending the content to the national facility) and download (sending national and regional content to

local areas) bandwidth and for further serving a community with content that is closer to its interests (Hane: [0014]).

Regarding claims 2-4 and 9-11, the combined teachings of Hugenberg and Hane teach PEG content to be created by local, educational and governmental public access to the cable television network **(Hugenberg: Local content for a PEG channel is collected from local producers, [0003]; [0014]; [0036]-[0037]; [0042]. Hane: Anyone outside the cable television network can pay for adding their content shown to the public through cable programming; which includes local, educational and governmental content creators, [0043]-[0045]; [0076]-[0078]).**

Regarding claims 5 and 12, the combined teachings of Hugenberg and Hane teach wherein the same general local interest programming is provided on the PEG channels for multiple local areas **(Hugenberg: [0003]; [0014]; [0036]-[0037]; [0042]).**

Regarding claims 6 and 13, the combined teachings of Hugenberg and Hane teach wherein the cable television network includes a video on demand (VOD) platform, the VOD platform including a library of locally produced PEG programming, the method further comprising providing locally produced PEG programming on demand with the VOD platform **(Hane: The local content to be inserted to the cable programming can be on-demand, [0058]. All the local content is stored in local databases,**

[0058]).

Regarding claims 7 and 14, the combined teachings of Hugenberg and Hane teach wherein the cable television network includes a high speed data (HSD) platform, the HSD platform including a library of locally produced PEG programming, the method further comprising providing locally produced PEG programming on demand with the HSD platform **(20, Fig. 1; [0036]; [0043]; [0058]. All the local content is stored in local databases, [0058]).**

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR PARRA whose telephone number is (571)270-1449. The examiner can normally be reached on 9-6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OP

/Christopher Grant/
Supervisory Patent Examiner, Art Unit 2623